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10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**  
12 **OAKLAND DIVISION**

13 ROXANA DEL TORO LOPEZ and ANA  
14 MEDINA, on behalf of themselves, and all  
others similarly situated,

15 Plaintiffs,

16 v.

17 UBER TECHNOLOGIES, INC.,

18 Defendant.  
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Case No. 4:17-cv-06255-YGR

**DECLARATION OF  
JENNIFER M. KEOUGH  
REGARDING ADMINISTRATION  
AND FUND B CLAIMS SCORING**

1 I, JENNIFER M. KEOUGH, declare and state as follows:

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3 1. I am Chief Executive Officer at JND Legal Administration (“JND”). The following  
4 statements are based on my personal knowledge and information provided to me by other JND  
5 employees working under my supervision and, if called on to do so, I could and would testify  
6 competently thereto.

7 2. JND is serving as the Settlement Administrator in the above-captioned litigation  
8 (“Action”) for the purposes of administering the parties’ First Amended Collective, Class Action and  
9 PAGA Representative Action Settlement Agreement (“Settlement Agreement”), preliminarily approved  
10 in the Court’s Order dated April 19, 2018.

11 3. JND is a legal administration services provider with operations centers in Denver,  
12 Minneapolis and Seattle. JND has extensive experience in all aspects of legal administration and has  
13 administered settlements in hundreds of cases.

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15 **DATA TRANSFER**

16 4. On May 5, 2018, Defendant’s counsel provided JND with an electronic file containing  
17 the names, last-known mailing addresses, phone numbers, email addresses, and relevant employment  
18 information for 487 Class Members. JND promptly loaded this Class Member data into a database  
19 established for this Action.

20 5. During the notice period, two Class Members reported that they did not believe they  
21 met the Class Definition. This was confirmed by the parties. The two individuals were excluded from  
22 the class, bringing the total number of Class Members in this Settlement to 485.

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24 **BENEFIT CALCULATIONS**

25 6. Prior to the Notice mailing, JND calculated the estimated Fund A monetary benefit for  
26 each Class Member based on the methodology set forth in the Settlement Agreement. The calculations  
27 are based on the length of time and time period during the Covered Period that each Class Member

1 worked in a Covered Position or Positions, the title of the Covered Position or Positions, the state in  
 2 which the Class Member held that Covered Position or Positions, whether the Class Member held that  
 3 Covered Position part-time or full-time, and whether the Class Member previously signed a release of  
 4 certain claims.

5 7. After the end of the notice period, JND recalculated awards to account for (i) the two  
 6 Class Members who were found to be ineligible because they did not meet the Class Definition  
 7 (discussed in ¶ 5, above), (ii) the exclusion of the two valid opt-outs (discussed in ¶ 17, below), (iii)  
 8 five successful challenges by Class Members to the employment data on the Class List that were  
 9 received by JND and confirmed by Uber's counsel, with no objection by Plaintiffs' counsel, (iv) the  
 10 addition of the small portion of funds that were set aside in case adjustments had been needed based  
 11 on Class Member data challenges, and (v) the addition of the difference between the maximum amount  
 12 of attorneys' fees permitted by the Settlement Agreement (i.e., 30%), and the amount of attorneys'  
 13 fees Class Counsel is seeking in the motion being filed now (i.e., 25%).

14 8. In total, these adjustments mean that awards from Fund A will be approximately 15%  
 15 higher than the amount set forth in Class Members' Notice forms.

16 9. The following are calculations for the three categories of recovery under the  
 17 Settlement:

18 a. **Fund A.** Of the \$5,190,000 allocated to the 483 Class Members  
 19 eligible for Fund A monetary benefits, the awards range from \$28.08 (in the case of someone who  
 20 worked 0.3 covered weeks) to \$38,929.62, with an average of \$10,745.34.

21 b. **PAGA penalties.** Class Members who worked in California are also  
 22 eligible for monetary benefits from the \$12,500 in PAGA penalties allocated to the Class based on the  
 23 number of weeks they worked in California. Of the \$12,500 allocated to the 363 Class Members  
 24 eligible for monetary PAGA benefits, the awards range from \$1.24 (in the case of someone who  
 25 worked 1 covered week) to \$55.91, with an average of \$34.44.

26 c. **Fund B.** Fund B award calculations, based on JND's evaluation of the  
 27 Claim Forms submitted by 56 Class Members, are described in ¶¶ 18-24, below.

**DISSEMINATION OF NOTICE**

10. **Toll-free telephone number.** On or about May 24, 2018, JND established a toll-free phone number that Class Members could call with questions about the settlement or to request re-mailings of the Notice and Claim Form. As of the date of this declaration, JND has received and responded to 19 calls from Class Members.

11. **Website.** On or about May 24, 2018, JND established a website, [www.UberSWESettlement.com](http://www.UberSWESettlement.com), which Class Members could visit to obtain case details, communicate with JND to update their addresses, or file a Fund B Claim directly through the website. As of the date of this declaration, the website has received 752 unique visitors and 2,757 pageviews.

12. **Mailed notice.** Pursuant to the terms of the Settlement Agreement, on May 24, 2018, JND mailed the court-approved Notice and Claim Form via first-class regular U.S. mail to the 487 Settlement Class Members. Prior to mailing, JND updated 17 Class Member addresses using the USPS National Change of Address database.<sup>1</sup> The Notice informed Class Members of their estimated monetary benefit amounts from Fund A, as well as the deadlines for filing a Fund B Claim Form, requesting exclusion from the Settlement, or objecting to the Settlement.

13. **E-mailed notice.** On May 24, 2018, JND also sent the Notice via e-mail to 957 e-mail addresses, representing one or more e-mail addresses that were provided for all 487 Class Members. 133 of these e-mails were returned as undeliverable.

14. **Reminder postcards.** On June 19, 2018, JND sent a reminder postcard to the 469 Class Members who had not yet filed a Fund B Claim Form, reminding them of the deadline to do so.

15. **Undeliverable notices.** During the notice period, JND tracked 103 Notices from the May 24 mailing that were returned as undeliverable without a forwarding address. JND conducted advanced address research, and updated address information was received for 76 Class Members.

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<sup>1</sup> The NCOA database is the official United States Postal Service (“USPS”) technology product which makes change of address information available to mailers to help reduce undeliverable mail pieces before mail enters the mail stream. This product is an effective tool to update address changes when a person has completed a change of address form with the USPS. The address information is maintained on the database for 48 months. -4-

1 Throughout the Notice Period as they were returned, JND re-mailed Notice by First-Class mail to  
2 these Class Members. Of the re-mailed Notices, 2 were returned as undeliverable.

### 3 4 **OBJECTIONS**

5 16. The deadline for Class Members to submit an objection to the Settlement is September  
6 10, 2018. As of the date of this declaration, JND has not received any objections to the Settlement.

### 7 8 **REQUESTS FOR EXCLUSION**

9 17. The deadline for Class Members to submit a request to be excluded from the Settlement  
10 if they did not file a Fund B Claim Form was July 9, 2018. The deadline for Class Members who did  
11 file a Fund B Claim Form is September 10, 2018. As of the date of this declaration, JND has received  
12 four requests for exclusion, two of which were subsequently rescinded. The remaining two exclusion  
13 requests were timely and properly complied with the Settlement Agreement requirements. The  
14 requests for exclusion were reported to the Parties. The two non-rescinded exclusion requests are  
15 attached hereto as Exhibit A.

### 16 17 **FUND B CLAIM FORMS AND SCORING**

18 18. As of this date, JND has received Fund B Claim Forms from 56 Class Members in the  
19 Settlement. Of these, only one Claim Form was received late. It was received three days after the  
20 deadline by electronic submission. The Class Member submitting this claim explained that she was  
21 out of the country on a vacation with her family during the deadline. The parties have recommended  
22 that this claim be permitted.

23 19. JND, in conjunction with Counsel for the Parties, conducted a thorough review of all  
24 submitted Claim Forms and assigned scores to each claim that directly translate to monetary benefits  
25 from Fund B. The scoring system was developed based on factors in the Settlement Agreement and  
26 Notice. As outlined below, claims were scored on a 100-point scale.

20. The scoring factors, as reviewed and agreed upon by JND and Counsel for the Parties, are as follows:

- (i) the nature of incidents that occurred during the Covered Period involving harassment based on covered race/national origin and/or gender, hostile work environment, and discrimination where medical or psychological treatment was sought, including the severity and invasiveness of the incident(s), duration of incident(s), location of incident(s), and quantity of incident(s), for which 0-30 points were assigned;
- (ii) the identity of the offender(s) and their position with the Defendant, for which 0-10 points were assigned;
- (iii) whether the incident was witnessed and/or reported by the claimant to staff, management, or other appropriate personnel, for which 0-10 points were assigned;
- (iv) the impact of the covered incidents on the claimant, including emotional distress and physical effects, whether medical or psychological treatment was sought and/or medication was prescribed, whether the person was terminated and the length of unemployment following such termination, and whether reporting the incident to appropriate personnel was not effective or adversely effective as alleged by the claimant, for which 0-30 points were assigned; and
- (v) whether the claimant had any special circumstances warranting additional points, including, but not limited to, the nature and continuity of any harassment, and the nature and impact on the claimant and others of the claimant's response to discrimination or harassment, for which 0-20 points were assigned.

21. In order to receive any points in categories (ii)-(v), a claimant must have demonstrated an applicable incident in (i). If no applicable incidents were demonstrated, and zero points were awarded in (i), categories (ii)-(v) were automatically also awarded 0 points. Of the 56 claims submitted, five were determined not to have demonstrated any applicable incidents and were awarded 0 points.

22. Prior to officially scoring the claims using the structured five-category approach set forth above, JND reviewed all the claims and grouped them into approximate categories to reflect the strength of the claims. This review allowed JND's scoring team to create a record of our common-sense assessment before following the official, structured scoring system described above, so that after the official system was followed, we could cross-check the reasonableness of the structured scoring system against our initial common-sense assessments. In conducting those preliminary assessments, we assessed the perceived severity and impact of the described incidents in each claim. Based on our cross-check of the actual scores with our initial assessments, JND believes that the final scores for each claim are fair and appropriate.

23. For the 56 Fund B claimants, the Fund B awards ranged from \$0 to \$100,000, with an average Fund B award of \$33,928.57 and a median award of \$30,000. The claimants' total awards – when the amounts from Fund A, PAGA penalties, and Fund B are added together – range from \$28.08 to \$106,720.53, averaging \$14,704.97.

24. On August 13, 2018, JND mailed via First-Class mail a customized letter to each claimant informing him or her of the amount of his or her Fund B award (as well as his or her PAGA share, if appropriate, and his or her updated Fund A award). On August 14, 2018, JND also sent the same letters via e-mail. For the late claimant, the letter informed that person that the Court may or may not accept the claim form. The letters followed the templates set forth below:

a. The notice mailed to all Fund B claimants who received an award and worked in California during the Covered Period is attached hereto as **Exhibit B**.

b. The notice mailed to all Fund B claimants who received an award and did not work in California during the Covered Period is attached hereto as **Exhibit C**.

c. The notice mailed to all Fund B claimants who received no award and worked in California during the Covered Period is attached hereto as **Exhibit D**.

d. The notice mailed to all Fund B claimants who received no award and did not work in California during the Covered Period is attached hereto as **Exhibit E**.

1 e. The notice mailed to the Fund B claimant who submitted a late Claim Form is  
2 attached hereto as **Exhibit F**.

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4 I declare under the penalty of perjury pursuant to the laws of the United States of America and  
5 the State of Washington that the foregoing is true and correct.

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7 Executed on August 17, 2018, at Seattle, Washington.

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9 /s/ Jennifer M. Keough

10 JENNIFER M. KEOUGH  
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